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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

8 INTAGIO CORPORATION, No. C-06-3592 PJH (EMC)  
9 Plaintiff,

10 v. ORDER RE DEFENDANT'S LETTER  
11 TIGER OAK PUBLICATIONS, INC., OF AUGUST 29, 2007  
12 Defendant. (Docket No. 136)

14 Defendant Tiger Oak Publications, Inc. has filed a letter regarding a discovery dispute over  
15 13 e-mails dated prior to the commencement of litigation by Plaintiff Intagio Corporation. Having  
16 reviewed Tiger Oak's letter, the Court hereby **DENIES** Tiger Oak's motion to compel for the  
17 following reasons.

18 First, Tiger Oak has failed to demonstrate that the parties met and conferred in good faith  
19 regarding the discovery dispute. Tiger Oak claims that there was a meet and confer at the deposition  
20 of Cynthia Koral on May 15, 2007, but the so-called meet and confer consisted of a brief exchange  
21 of words between counsel. Moreover, for three months thereafter, there was no discussion of the  
22 discovery dispute between the parties. It was not until August 27, 2007, that Tiger Oak raised the  
23 discovery dispute again and, at that point, it did not meet and confer with Intagio; rather, it simply  
24 said that it intended to raise the dispute with the Court via joint letter.

25 Second, Tiger Oak has failed to demonstrate that it was not possible to provide a joint letter  
26 to the Court regarding the discovery dispute, as required by previous order of the Court. While  
27 discovery may be set to close on September 4, 2007, the Civil Local Rules allow parties to raise  
28 discovery disputes 7 days after the cut-off to make a motion to compel.

1       Finally, on the merits, Tiger Oak's position is not supported. At the May 10, 2007, hearing,  
2 the Court's concern was Category 2 on the privilege log, which covered "[a]ll notes, internal work  
3 product, and undistributed draft court documents, created by attorney Steven Lewicky." Joint letter  
4 of 5/8/07, Ex. A (Intagio's privilege log). Mr. Lewicky's representations regarding prelitigation  
5 documents concerned Category 2 only. They did not address Category 4, which included the 13 e-  
6 mails at issue in this discovery dispute.

7              This order disposes of Docket No. 136

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9              IT IS SO ORDERED.

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11          Dated: August 30, 2007

  
EDWARD M. CHEN  
United States Magistrate Judge